

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

 DOTE-00 INR-07 NSAE-00 FAA-00 L-02 /031 W

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R 211508Z MAY 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC 5738

INFO AMEMBASSY BONN

AMEMBASSY LONDON

AMEMBASSY THE HAGUE

AMEMBASSY PARIS

AMEMBASSY BRUSSELS

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EO 11652: N/A

TAGS: EAIR , AU

SUBJ: CIVAIR: PAN AM COMMISSION PLAN

REF: VIENNA 4203 AND PREVIOUS (NOTAL)

1. LOCAL PAN AM REP IN ABSENCE OF AREA DIRECTOR LOY)
PHONED EMBASSY THIS MORNING AND RELAYED FOLLOWING
MESSAGE WHICH PAN AM AUSTRIA HAS RECEIVED FROM
PAN AM OFFICE IN LONDON:

(QUOTE) IN CONNECTION WITH THE INCENTIVE COMMISSION
PLAN, STATE DEPARTMENT IS SUPPORTING PAN AM INR
CRITICAL AREAS. DEPARTMENT DELUGED BY REQUESTS FOR
GUIDANCE FROM EMBASSIES, STIMULATED BY LOCAL PAN AM
INQUIRIES. IN ORDER MINIMIZE BURDEN, WE ARE SPELLING
OUT BELOW A QUOTATION WHICH STATE DEPARTMENT HAS
SUPPLIED US WHICH CAN BE QUOTED VERBATIM WITHOUT
REQUESTING PERMISSION THROUGH EMBASSIES:

"WHERE FOREIGN GOVERNMENTS CLAIM THAT
COMMISSIONS ARE PART OF THE TARIFF
STRUCTURE AND THAT, THEREFORE, THE RATE
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ARTICLES IN BILATERAL AIR TRANSPORT AGREE-
MENTS COME INTO PLAY, THE DEPARTMENT OF

STATE IS TAKING THE POSITION THAT THE UNITED STATES DOES NOT REGARD COMMISSIONS AS PART OF TARIFF AND THAT, THEREFORE, THE RATE ARTICLES IN BILATERAL AGREEMENTS ARE NOT RELEVANT."

(QUOTE) THE DEPARTMENT HAS ALREADY TAKEN THE POSITION WITH A NUMBER OF COUNTRIES THAT THE BILATERAL AGREEMENT CANNOT BE CONSTRUED TO AUTHORIZE ANY ACTION AGAINST US FLAG CARRIERS BASED ON ATTEMPT TO REGULATE COMMISSIONS PAID FOR SALES IN THE TERRITORY OF THE US OR IN ANY OTHER COUNTRY OUTSIDE THE TERRITORY OF THE GOVERNMENT SEEKING TO REGULATE SUCH COMMISSIONS. THE QUESTION WHETHER A LOCAL GOVERNMENT CAN REGULATE COMMISSIONS ON LOCAL SALES IS ONE THAT BE DETERMINED AS A MATTER OF LOCAL LAW. THE ABOVE POSITIONS CAN BE CONVEYED TO THE LOCAL AUTHORITIES AS REPRESENTING THE GENERAL POSITION OF THE US GOVERNMENT APPLICABLE EVERYWHERE. (UNQUOTE)

2. LOCAL REP ASKED IF EMBASSY HAS BEEN IN TOUCH WITH GOA CONCERNING BILATERAL. WE INFORMED HIM EMBASSY HAS NOT BEEN IN CONTACT WITH GOA AND HAS HAD NO INSTRUCTIONS TO DO SO.

3. LOCAL REP REPEATED THAT HE IS UNDER INSTRUCTIONS TO IMPLEMENT 10 PERCENT PLAN UNLESS IT IS DETERMINED TO BE CONTRARY TO LOCAL LAW. LOCAL REP INFORMED US HE IS RECOMMENDING TO PAN AM'S LONDON OFFICE TODAY THAT PAN AM NOT REPEAT NOT ATTEMPT TO IMPLEMENT 10 PERCENT COMMISSION PLAN HERE ON GROUND IT MIGHT BE DETRIMENTAL TO PAN AM'S INTERESTS IN AUSTRIA. AS FAR AS WE KNOW, PAN AM HERE HAS NOT BEEN IN TOUCH WITH GOA SINCE RECEIPT OF GOA LETTER OF APRIL 17 STATING PAN AM'S COMMISSION PLAN NOT PERMISSIBLE IN AUSTRIA. BUCHANAN

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